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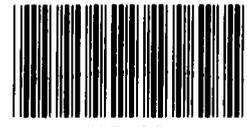
UNITED STATES GENERAL ACCOUNTING OFFICE  
WASHINGTON, D.C. 20548

FEDERAL PERSONNEL AND  
COMPENSATION DIVISION

B-208668

DECEMBER 22, 1982

The Honorable Donald J. Devine  
Director, Office of Personnel  
Management



120180

Dear Dr. Devine:

Subject: Agency Administrative Systems Need Attention  
(GAO/FPCD-83-15)

We have completed a review of administrative grievance systems at selected Federal agencies and found some shortcomings which could lessen the effectiveness of the grievance procedures. These are (1) untimely processing of grievances by agencies and (2) lack of formal systematic methods to determine how well the systems operate.

BACKGROUND

Title 5, Code of Federal Regulations, part 771, as promulgated by the Office of Personnel Management (OPM), requires Federal agencies to establish, publicize, and administer a grievance system generally for nonbargaining unit employees. The system is available to covered employees for personal relief in any matter of concern or dissatisfaction which is subject to the control of agency management, such as poor working conditions, failure to follow rules and regulations, short-term suspensions, changes in official assignments, and nonselection for training opportunities.

Federal agencies are allowed flexibility in establishing administrative grievance procedures to suit their particular conditions and characteristics. The typical grievance system, in the agencies we reviewed, included an informal discussion between the employee and the immediate supervisor. If the grievance was not resolved through informal discussion, it proceeded through a sequence of steps for review and response by progressively higher levels of management. If the grievance remained unresolved, the matter was decided by a top management official, and this decision was final.

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The Code of Federal Regulations requires OPM to review agency administrative grievance systems from time to time. Also, OPM can require corrective action where systems fail to meet the requirements of the Regulations.

#### OBJECTIVE, SCOPE, AND METHODOLOGY

Our objective was to determine whether (1) the requirements of title 5, Code of Federal Regulations, part 771, were being met, (2) procedures included the key elements of an effective system, and (3) employee grievances were being resolved promptly. We reviewed OPM regulations and supplemental guidelines on administrative grievance systems and discussed with OPM officials their responsibilities for overseeing agency systems.

We reviewed the administrative grievance systems established by the Departments of the Army, the Navy, the Air Force, Agriculture, the Interior, and Health and Human Services; and the Veterans Administration. We performed our work at the headquarters level of these seven departments and agencies where we reviewed grievance policies and regulations, discussed operating procedures and practices with agency officials, and collected statistics and other pertinent information on grievance activity. We selected these departments and agencies because they have large numbers of civilian employees covered by administrative grievance systems and include both defense and civilian agencies.

We examined the administrative grievance systems of three departments--Army, Agriculture, and the Interior--in more detail than the others because each had case files of formal grievances at one central location. We also discussed the administrative grievance systems with officials of the Naval Civilian Personnel Command Field Office and the Naval Base Civilian Personnel Office, Norfolk, Virginia; the Forest Service headquarters, Washington, D.C.; and the National Park Service headquarters, Washington, D.C.

Our review was conducted from March through June 1982 in accordance with generally accepted Government audit standards.

#### AGENCIES NEED TO IMPROVE THE TIMELINESS OF GRIEVANCE PROCESSING

A grievance system's credibility is enhanced when employees receive prompt responses and decisions. On the other hand, when

employees are confronted with long periods of processing delays, they may become dissatisfied with or lose confidence in the system. Moreover, untimely decisions may even be irrelevant when an employee quits or retires from his/her job.

Although departments and agencies can determine their own time limits for action at each step of the process and/or the entire process, they were not meeting their established time limits. We did note that two departments were trying to improve their processing time.

Each department and agency had a problem in processing and resolving grievances promptly. For example, one department had a time limit for each step of the process with a 90-day limit for the entire process. However:

--Our analysis of 747 grievance cases closed by the appellate review office during the 15-month period ended March 1982 disclosed that 554 took more than the allowed 35 days to investigate--170 took over 100 days. An agency official told us that the average investigation took 55 days.

--One organization completed seven cases from October 1980 to May 1982. None were completed on time. An agency official told us that reaching a final decision for a grievance usually took at least 21 days, although the established time limit for a final decision is 7 days.

Another department also greatly exceeded the established time limits.

--Although the established time limit for the department head to render a final decision on a grievance is 145 days, an average of 373 days was taken to resolve 52 grievances during fiscal years 1981 and 1982.

--Time data available on 86 cases completed by examiners from October 1980 to May 1982 showed an average of 154 days was taken for investigations. Department time limits required investigations to be completed within 60 days after receipt of the grievance file.

A number of agency personnel management reports expressed concern about the long time agencies took to resolve grievances. One report stated that, once cases entered the formal procedures, they were often held at certain levels for 6 to 12

months before a final decision was issued or some other response was made to the grievant explaining why a final decision would not be issued at that level. Another report attributed the lengthy processing time to the priority given to adverse action appeals, equal employment opportunity complaints, and grievances with high management or congressional interest. According to the report, some grievance cases were put on the "back burner," taking a great deal of time to complete, and problems were allowed to go unresolved--and to fester--for extremely long periods.

A third department said that grievance examiners averaged 5 to 6 months to handle a grievance. Although this department had established timeframes for several steps in the grievance process, it had no regulations limiting the time for investigating grievances and for reporting findings and recommendations at the examiner level.

These three departments had instances in which employees had retired or resigned before their cases were decided.

The Department of Health and Human Services and the Department of the Navy were trying to improve timeliness to changing their grievance procedures.

The Department of Health and Human Services was experimenting with alternative procedures for employees of several operating divisions to shorten the time it takes to reach a final decision on a grievance. An employee may elect to have a grievance decided by a committee rather than use the regular multi-step formal procedure. The deciding official within the operating division requests an examiner from the Office of Personnel Systems Integrity to chair the committee. Two other impartial members, one chosen by the employee and the second chosen by the official who issued a decision under the informal procedure also serve on the committee. The examiner is required to convene the committee as soon as possible, but no later than 21 days after appointment to the committee. The committee is supposed to issue, as early as possible, but within 7 days after testimony, a written decision by majority vote. This is a final decision. Under the multistep procedure, the Department's regulations allow a final decision to take as long as 225 days. Department officials said they planned to evaluate the committee approach at the end of calendar year 1982.

In August 1980, the Navy implemented an administrative grievance system that allows an official at the activity level to decide grievances. The new system eliminated the previous

appeal levels, including a procedural right by the grievant to an investigation by a grievance examiner. A deciding official

--determines whether to accept or reject all or part of a grievance;

--determines which issues, if any, will be investigated if the grievance is accepted;

--selects one of the following methods to resolve the grievance: (1) use facts presented in the written grievance, (2) conduct a factfinding inquiry, (3) request third-party factfinding, or (4) request a hearing examiner to conduct a hearing and report findings and recommendations; and

--issues a final decision within 90 days if a hearing is not held, or 120 days if a hearing is held.

We were told that, on the average, grievance cases under the old process took from 9 months to 1 year to complete--Navy regulations required completing a grievance within 90 days. The Navy installations did not have enough experience with the new system to enable us to study the results. We noted, however, that the few cases that had been processed under the new system met the time requirement.

#### AGENCIES NEED TO MONITOR AND EVALUATE THEIR ADMINISTRATIVE GRIEVANCE SYSTEMS

Because the departments and agencies generally do not collect and evaluate grievance system data, they do not have a basis for judging the effectiveness of their systems or for identifying and correcting problems. OPM does not require departments and agencies to establish data collection and evaluation procedures for assessing how well grievance systems work. OPM only requires agencies to establish files when factfinding is used.

Several departments track and study certain aspects of their grievance activity, but not the overall effectiveness of their systems. Department and agency headquarters do not generally collect agencywide data. One department attempted to collect fiscal year 1981 information on grievances from its various personnel offices, but many of the reports submitted were incomplete and could not be used to conduct an overall analysis.

Another department headquarters has instituted a computerized system for cataloging a variety of information on grievances processed by its appellate review office. The system identifies the grievances by organizational component, type of grievance, and cause. We believe the collection and evaluation of this information is a good beginning. The system, however, does not track the processing time and includes only those grievances resolved at the appellate review level.

Subunits we visited in three departments were not collecting enough information to measure the effectiveness of grievance administration. One subunit received a periodic report on the number of grievances filed from lower level units. The statistics received showed where grievances were generally coming from but could not be used to categorize them by type or possible cause. The headquarters of the same organization determined the amount of time it took to reach final decisions on grievances at the headquarters level, but it did not determine the amount of time it took to process and resolve grievances below the headquarters level.

Departments and agencies conduct evaluations of a variety of personnel issues. We obtained information on evaluations at four departments. We noted that two departments did not require coverage of grievances when the evaluations were made, and none of the four required that grievance matters be addressed in evaluation reports.

### CONCLUSIONS

Although the departments and agencies have established time limits to provide orderly processing and timely resolution of grievances, they are not meeting the time frames. Taking more than the allowed time to settle grievances decreases confidence in the system and detracts from its credibility. We believe departments and agencies must meet their established time limits if the grievance systems are to be credible. Two departments have implemented grievance mechanisms which may help reduce the time it takes to process a grievance. But more experience is needed to determine whether they will provide a solution to the timeliness problem.

The departments and agencies generally do not have a basis for judging the effectiveness of their administrative grievance systems. Some departments and agencies have begun collecting information to evaluate their systems, but none have an overview of the systems' effectiveness. We believe that in order for departments and agencies to evaluate their systems, they need to

collect information such as (1) the types of grievances, (2) where they occur, (3) how and at what level in the process they are resolved, (4) the time it takes to process and resolve grievances, and (5) causes of delays in processing grievances.

#### RECOMMENDATIONS

We recommend that the Director, OPM:

- Emphasize to departments and agencies the importance of establishing and meeting credible time limits and correcting problems that cause these time limits to be exceeded.
- Direct departments and agencies to collect information essential to a monitoring and evaluation program and evaluate the effectiveness of their administrative grievance systems.
- Assess the advantages and disadvantages of the procedures being used by the Department of Health and Human Services and the Department of the Navy to improve timeliness and give the results to other Federal departments and agencies for comparison with their procedures' advantages and disadvantages.

#### AGENCY COMMENTS AND OUR EVALUATION

In commenting on a draft of this report, OPM made several suggestions where additional information might be useful to the reader. Most of the suggested information was not added because (1) we did not develop it during our review and (2) it is not needed to further explain the points made in the report. However, we did make several wording changes suggested by OPM for clarifying the report.

OPM stated that, in addition to the information we suggested agencies should collect to evaluate their grievance systems, the agencies should also collect information on the causes of delays in processing grievances. We agree that reasons for delays should be identified and have added this on page 7.

OPM questioned our recommendation that the Director, OPM, direct departments and agencies to collect information essential to a monitoring and evaluation program. OPM indicated that,

while this type of information was not available in the seven departments and agencies we reviewed, it may be available elsewhere. It suggested that a determination should be made on what is being accomplished on a Government-wide basis and what benefits would accrue from collecting this information.

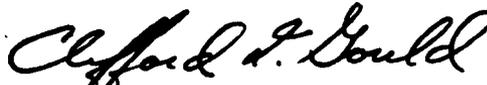
In our opinion, if agencies already have the pertinent information, directing them to use it to evaluate their administrative grievance systems would not be burdensome or duplicative. However, we believe that, if this information is not collected, agencies should be directed to do so, so that they will be able to evaluate the effectiveness of their systems.

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As you know, section 236 of the Legislative Reorganization Act of 1970 requires the head of a Federal agency to submit a written statement on actions taken on our recommendations. This written statement must be submitted to the House Committee on Government Operations and the Senate Committee on Governmental Affairs not later than 60 days after the date of the report. A written statement must also be submitted to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report.

Copies of this report are being sent to interested committees and subcommittees of the Congress. Copies are also being sent to the departments and agencies we visited.

Sincerely yours,

  
Clifford I. Gould  
Director

Enclosure

United States of America  
**Office of  
Personnel Management**

Washington, D.C. 20415

In Reply Refer To

Your Reference:

OCT 27 1982

Charles A. Bowsher  
Comptroller General  
U.S. General Accounting Office  
Washington, D.C. 20548

Dear Mr. Bowsher:

This is in response to a September 28, 1982, letter from Clifford I. Gould, Director of the Federal Personnel and Compensation Division, which provided the Office of Personnel Management (OPM) a copy of the draft GAO report entitled "Agency Administrative Grievance Systems Need Attention" (GAO/FPCD-82-73) for review and comment. OPM has reviewed the draft report and offers the following comments for your consideration in preparing and issuing the final report on this subject.

On page 1 in the first paragraph of the "Background" section, the draft report states that the grievance system is "for nonunion civilian employees." This characterization of the employees covered by the system may be subject to misunderstanding by readers of the report. Technically, the system covers all nonbargaining unit employees of an agency. Nonbargaining unit employees are those who are not included in an appropriate exclusive bargaining unit as determined by the Federal Labor Relations Authority for which a labor organization has been granted exclusive recognition. In addition, an agency has the discretion to extend coverage of the system to bargaining unit employees on those matters that are mutually excluded from negotiated grievance procedures. In this regard, the Federal Personnel Manual (FPM) states in Chapter 771: "However, bargaining unit employees have the same rights as non-bargaining unit employees until the agency and the exclusive representative negotiate a grievance procedure pursuant to 5 U.S.C. §7121, and the negotiated procedure becomes operative." At any rate, whether or not an employee is a member of a union does not determine the coverage of agency administrative grievance systems.

Also, some individuals who are covered by a grievance system may not be employees at all. These individuals may include former employees in certain circumstances, or they may include applicants for employment who have been covered by exercise of agency discretion permitted by regulation.

In order to minimize possible confusion, OPM recommends that the phrase "for nonunion civilian employees," be replaced with "generally nonbargaining unit employees."

On page 1, the first full paragraph notes that Federal agencies have "some" flexibility in establishing administrative grievance procedures. Actually, current regulations provide for considerable flexibility, especially when compared to the amount permitted by previous regulations. This flexibility was built into new regulations issued by OPM subsequent to the passage of the Civil Service Reform Act of 1978 and was in keeping with a general attempt to decrease the amount of government regulation.

Also on page 2 of the draft, the first paragraph of the "Objective, Scope, and Methodology" section refers to an "ideal or model grievance system as defined by personnel experts." It would be useful for readers if the report would establish the credentials of these personnel experts; and, once their credentials have been established, provide the experts' views on what constitutes the elements of an ideal or model grievance system.

On page 2, the first paragraph of the same section notes that the departments and agencies studied were chosen because of their large numbers of civilian employees covered by administrative grievance systems. In order for the readers to better place into perspective those statistics concerning grievance processing set forth later in the report, it would be useful if the report stated at some point the number of employees covered by the system in each agency and department studied in the GAO review.

On page 2, the second paragraph stated that the grievance systems of three departments were studied in more detail because of central repositories of case files of formal grievances. This implies that grievances under the agencies' systems that were not formal were not studied. Quite conceivably, the most "effective" system, may result in most grievances being resolved at earlier, nonformal levels of which there may or may not be records. Some of these agencies may have such files even though regulations only require that official records, i.e., grievance files, be established by agencies when fact-finding is utilized. Since OPM has stated in its guidance that an agency may require that grievance files be established in other circumstances or all circumstances, it would be useful for the reader if the report indicated to what extent this guidance was followed and to what extent nonformal grievances were studied in the GAO review.

On page 3, the section of the report entitled "Agencies Need to Improve the Timeliness of Grievance Processing" provides information about the timeliness of agency processing of grievances. The statistics set forth would be more useful to the reader if the report contained more of an analysis of the statistics. For example,

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the distribution, mean and range of processing times would be helpful. Such analysis might also include some discussion on the relative complexity of the grievances studied--what circumstances were affecting the processing of the grievance such as intertwining issues involving the Special Counsel of the Merit Systems Protection Board (MSPB), allegations of discrimination and perhaps pay issues pending before the Comptroller General. Have the delays been caused solely by management inaction, the agencies' regulations or some other primarily management reason, or have the delays been caused by actions or inactions on the part of the grievant as well?

On page 3, the second paragraph of the same section refers to "agency personnel management reports." Since it is not clear from the draft, it would be useful for the reader if the report indicated to what extent these agency reports reflected studies of the same grievance cases reviewed by the GAO.

Also on page 4, the draft notes that one department had no regulations limiting the time for investigating grievances and for reporting findings and recommendations at the examiner level. Since the regulations require that the agency grievance system must include specific time limits to insure that each grievance will receive prompt consideration, it would be useful to know whether this department has no time limits in its system at all or if that is the case only at the steps noted.

On page 5 in the second paragraph under the section entitled "Agencies Need to Monitor and Evaluate Their Administrative Grievance Systems," the draft notes that "OPM does not require departments and agencies to establish data collection and evaluation procedures to assess how well grievance systems work." While OPM does not require these types of procedures, the regulations, as mentioned previously, do require agencies to establish grievance files when fact-finding is utilized. Again, the agencies may go beyond this requirement to require grievance files in other circumstances or all circumstances.

On page 6, the section entitled "Conclusions" suggests in the paragraph bridging the pages several types of information that departments and agencies should collect in order to evaluate their grievance systems. If this type of information is collected, it should also include information concerning the causes of any delays in grievance processing in order that problems may be more readily identified and remedied.

On page 7, the second recommendation of the section entitled "Recommendations" would ultimately require departments and agencies to collect certain information essential to a monitoring and evaluation program. While such information was apparently not always available in the departments and agencies covered by the GAO review, this may not be the case generally. Before such a requirement is imposed on

agencies, it would be useful to determine more precisely what is currently accomplished on a government-wide basis and what benefits would accrue from collection of the information. This type of approach could serve to minimize the possible duplicative affect of collecting information already available from some other source. This is especially important because of the task many department and agency heads face in accomplishing their missions in view of constricting budgets.

We thank you for the opportunity to comment on the draft report of your review of agency administrative grievance systems. We hope that our comments on the draft will be of use to you in preparing the final report on this subject.

Sincerely,

A handwritten signature in black ink, appearing to read 'Donald J. Devine', with a long horizontal flourish extending to the right.

Donald J. Devine  
Director

GAO note: Page references have been changed to correspond with those in the report.

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